

REMARKS/ARGUMENTS

Claims 1 – 17, and 19 - 21 are pending in the present application. Claims 1 and 9-12 have been amended to better describe the present invention. No new matter has been added.

1. The Examiner has rejected claims 1-17 and 19-21 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention.

Applicants have amended the claims to include a "processor" and a "controller" to distinctly claim the Applicants' invention. Applicants request that the objection be withdrawn.

2. The Examiner has objected to Applicants' amendment filed 9/3/03 under 35 U.S.C. 132 contending the amendment introduced new matter into the disclosure. The Examiner contends that the original disclosure does not support the added material as follows: "A process control system for controlling the velocity including a processor that provides a control signal, in response to the velocity signal, to a flow device that controls the velocity of the fluid to a desire rate".

Applicants traverse the Examiner's contention that the previously amend claims added new matter, and directs the Examiner to Fig. 33 and page 25, lines 3-23. Specifically, the specification describes "... a process control system 500 incorporating a sensor 10 in accordance with the present invention. Fluid velocity logic 40 communicates $U_c(t)$ along line 42 to control device 70, a computer or microprocessor for example, where the information may be used to control the fluid velocity in pipe 502 through known controls means ...". Further support for the matter added to claims 1 and 12 can be found in the originally filed claim 18.

Accordingly, Applicants submit that no new matter has been added to the application, and requests the object be withdrawn.

3. The Examiner has provisionally rejected claims 1 – 17 and 19-21 under the judicially created doctrine of double patenting over claims 1 – 28 and claims 1- 114 of copending Application No. 09/345,827 (now granted) and 10/115,727 (notice of allowance), respectively. The Examiner rejected the claims assuming the "new matter" is canceled.

As discussed, the previously amended claims did not add new matter to the application. Consequently, Applicants renew their contention that the provisional rejection is improper because the claimed subject matter, as amended, is not fully disclosed in the referenced copending applications and would not be covered by any patent granted on the copending applications. The present invention is claiming a control system and a method of controlling the velocity of fluid through a pipe of an industrial process. The above-referenced copending patent applications do not teach or suggest such a method or control system, and therefore, could not be claimed in the copending application.

Accordingly, Applicants submit that the nonstatutory double patenting rejection be withdrawn.

4. Claims 1 – 4 and 12 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Lew (5,152,181).

As discussed in the previous response, claims 1 and 12, respectively, have been amended to claim a control system having a “controller that provides a control signal, in response to the velocity signal, to a flow device that controls the velocity of the fluid”, and a method having the step of “providing a control signal, in response to the velocity signal, to a flow device that controls the velocity of the fluid”.

Lew does not disclose, teach or suggest such a control system or method as claimed by the Applicants. Lew simply provides a mass-volume vortex flowmeter.

Applicants respectfully traverse Examiner’s rejection for at least the reasons provided above. Therefore, Applicants respectfully submit that claims 1 and 12 are not rendered obvious and it is respectfully requested that these claims be reconsidered and allowed.

5. Claims 2 – 4 variously depend on independent claim 1, and therefore are not rendered obvious by Lew, and it is respectfully requested that these claims be reconsidered and allowed for at least the reasons provided hereinbefore.

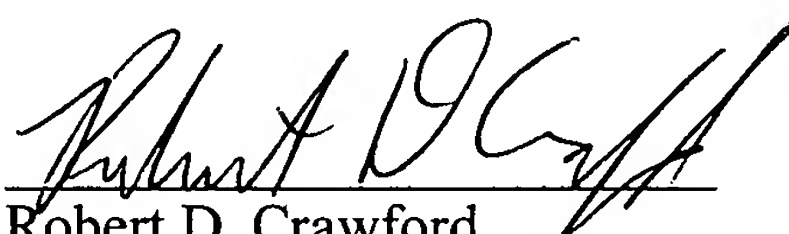
6. Claim 18 was canceled in Applicants' response dated 9/3/03, and therefore this rejection is moot.

7. In view of the foregoing, it is respectfully requested that claims 1 – 17 and 19 - 21, be reconsidered and allowed based on at least the reasons provided hereinbefore.

8. In view of the foregoing, it is respectfully requested that the application be reconsidered and allowed. If the Examiner is not prepared to allow all the claims in view of the discussion herein, Applicants hereby respectfully request a phone interview with the Examiner at the Examiner's earliest convenient. Applicants' counsel can be reached at 203-626-3502 (direct dial) between the hours of 8:00 a.m. and 5:00 p.m., or by E-mail at rcrawford@cidra.com.

9. A petition for a three-month extension of time under 37 CFR 1.136 is submitted herewith. Please charge the fee of **\$950.00** for the extension of time to Deposit Account No. 50-0260 Order No. CC-0122A. Any deficiency or overpayment should be charged or credited to this deposit account.

Respectfully submitted,
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